

REMARKS

This application is a divisional of US 09/806,437. Claims 1-7 are pending in the application.

The current action requires election under 35 U.S.C. 121 among six groups of claims:

Group I: Claims 1-5, 7, drawn to a method for the differential-diagnostic early detection and detection of a pro-gastric-releasing peptide (proGRP), classified in class 435, subclass 7.1;

Group II: Claims 1-5, 7, drawn to a method for the differential-diagnostic early detection and detection of a pro-endothelin-1 peptide (proEND), classified in class 435, subclass 7.1;

Group III: Claims 1-5, 7, drawn to a method for the differential-diagnostic early detection and detection of a pro-brain-natriuretic peptide (proBNP), classified in class 435, subclass 7.1;

Group VI: Claims 1-5, 7, drawn to a method for the differential-diagnostic early detection and detection of a pro-atrial-natriuretic peptide (proANP or pro-ANF), classified in class 435, subclass 7.1;

Group V: Claims 1-5, 7, drawn to a method for the differential-diagnostic early detection and detection of a pro-leptin, classified in class 435, subclass 7.1;

Group VI: Claims 1-5, 7, drawn to a method for the differential-diagnostic early detection and detection of a pro-neuropeptide-Y, classified in class 435, subclass 7.1;

Group VII: Claims 1-5, 7, drawn to a method for the differential-diagnostic early detection and detection of a pro-somatostatin, classified in class 435, subclass 7.1;

Group VIII: Claims 1-5, 7, drawn to a method for the differential-diagnostic early detection and detection of a pro-neuropeptide-YY, classified in class 435, subclass 7.1;

Group IX: Claims 1-5, 7, drawn to a method for the differential-diagnostic early detection and detection of a pro-adrenomedullin (pro-ADM), classified in class 435, subclass 7.1;

Group X: Claim 6, drawn to a method for the differential-diagnostic early detection of dipeptidyl-peptidase IV, classified in class 435, subclass 7.1;

Applicants hereby provisionally elect the claims of Group IV, (claims 1-5, 7 with respect to pro-ANF) with traverse.

Claim 2 contains a Markush group of vasoactive peptide prohormones that Applicants have identified as useful in diagnosing sepsis. The claims are amended above to reduce the number of members of the Markush group from nine (9) to four (4).

According to MPEP §803.02, when a Markush group occurs in a claim reciting a process, it is sufficient if the members of the group are disclosed in the specification to possess at least one property in common which is mainly responsible for their function in the claimed relationship, and it is clear from their very nature or from the prior art that all of them possess this property. In the present case, the specification describes a number of pro-hormone peptides that have a common structural element, that is, that they possess an amino terminal site that is cleavable by a dipeptidyl-aminopeptidase. Cleavage by the enzyme at that site results in loss of a dipeptide (Xaa-Pro) from the prohormone. The present invention identifies a number of such truncated prohormone peptides which have utility as biomarkers for the diagnosis of sepsis.

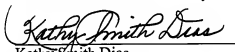
MPEP §803.02 further states that if the members of the Markush group are sufficiently few in number or so closely related that a search and examination of the entire claim can be made without serious burden, the examiner must examine all the members of the Markush group in the claim on the merits, even though they may be directed to independent and distinct inventions.

Applicants respectfully submit that the claims, as amended herein, contain a Markush group of a sufficiently low number of pro-hormones related as having common utility and a common structural feature, that the burden with respect to search and examination is greatly reduced, whereas the burden for Applicants to prosecute as separate inventions would be undue.

Withdrawal of the restriction is respectfully requested.

The Examiner is invited to contact Applicants' Attorney at the telephone number given below if any further questions arise in connection with this Application.

Respectfully submitted,


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